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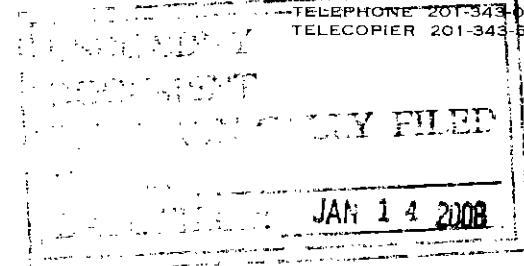
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January 11, 2008

SO ORDERED

*George B. Daniels*  
HON. GEORGE B. DANIELS

## BY HAND DELIVERY

Honorable George B. Daniels  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

RE: RLI Insurance Company vs. JDJ Marine, Inc.  
Case No.: 07-cv-09546-GBD  
Our File: 70000202 JAVN/NN/GSR

Dear Judge Daniels:

We represent plaintiff RLI Insurance Company ("RLI") in the above-referenced matter.

We write to request the Court's permission to file the enclosed sur-reply memorandum of law in further opposition to the motion filed by Commerce Bank, N.A. ("Commerce") to intervene as of right pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure, which was returnable on January 10, 2008. We respectfully request that the Court consider RLI's sur-reply because Commerce raised new arguments and has also made several misstatements in its reply papers. For instance, Commerce now seeks to amend its motion to include a request for permissive intervention, a relief which was not raised in its original motion papers. The purpose of the sur-reply is to provide RLI with an opportunity to set the record straight and address Commerce's new arguments and request for relief.

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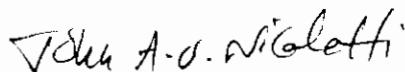
We also wish to advise the Court that we contacted Commerce's counsel this morning by telephone and this afternoon via e-mail to obtain their consent to file this pleading. However, we have not received a response to our request.

We thank the Court for its time and consideration of this matter.

Respectfully submitted,

NICOLETTI HORNIG & SWEENEY

By:



John A.V. Nicoletti

JAVN/GSR/s/mm

Enclosure

cc:

**BY FAX and FIRST CLASS MAIL**

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